

August 24, 2009

Mr. Robert H. Nelson, District Director  
U.S. Small Business Administration  
Massachusetts District Office  
10 Causeway Street, Room 265  
Boston, MA 02222

Re: Collateral and Security Requirements for Small Business  
Administration (SBA) 504 Program Loans.

Dear Mr. Nelson:

You have asked if the exemption from the collateral and security requirements in NCUA's member business loans (MBL) rule for loans made as part of an SBA guaranteed loan program includes loans made under SBA's 504 loan program. Yes, the exemption applies to 504 loans.

NCUA's MBL rule imposes collateral and security requirements for all secured MBLs, including construction and development loans. 12 C.F.R. §§723.3, 723.7. In short, those provisions require a borrower to have a specified minimum equity position in a project or set a maximum loan-to-value ratio for business loans.

Sections 723.4(b) and (c) of the MBL rule, however, provide an exemption from the above collateral and security requirements. Specifically, those provisions state:

(b) If a federal credit union makes a member business loan as part of a Small Business Administration guaranteed loan program with loan requirements that are less restrictive than those required by NCUA, then the federal credit union may follow the loan requirements of the relevant Small Business Administration guaranteed loan program to the extent they are consistent with this part. A federally insured State-chartered credit union that is subject to this part and makes a member business loan as part of a Small Business Administration guaranteed loan program with loan requirements that are less restrictive than those required by NCUA may follow the loan requirements of the relevant Small Business Administration guaranteed loan program to the extent they are consistent with this part if its state supervisory authority has determined that the credit union has authority to do so under State law.

Mr. Robert H. Nelson, District Director

August 24, 2009

Page 2

(c) The collateral and security requirements of §723.3 and §723.7 do not apply to member business loans made as part of a Small Business Administration guaranteed loan program.

12 C.F.R. §§723.4(b) and (c). NCUA has received a number of requests to clarify that the exemption in §§723.4(b) and (c) includes loans made under SBA's 504 loan program. Please note the NCUA Board confirmed the exemption applies to 504 loans in a final rulemaking. 69 Fed. Reg. 62563, 62564 (October 27, 2004).

Feel free to contact Staff Attorney Frank Kressman or me with any additional questions or if we can be of further assistance.

Sincerely,

/S/

Sheila A. Albin  
Associate General Counsel

OGC/FSK:bhs  
09-0661